

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

**ROBERT PSENKA, JEFF RODD AND
OZARK ENCLAVE PROPERTIES, and
J AND J DEVELOPMENT, INC.**

PLAINTIFFS

V.

NO. 5:05-CV-5200 RTD

**HAYES FAMILY TRUST, HERMAN GROVER
HAYES, VERA L. HAYES, EVERETT HAYES,
JOEL HAYES, LINDA HAYES, TIM HAYES AND
SANDRA MCNEIL**

DEFENDANTS

ORDER OF DISMISSAL WITHOUT PREJUDICE

On Friday, April 11, 2008, information came to light indicating that the citizenship of the Hayes Family Trust, a Defendant, may be in the State of Arkansas. Such information raised the issue of whether this Court has subject matter jurisdiction based on diversity of citizenship.

By conference call on Monday, April 14, 2008, between the Court and counsel for the Plaintiffs, Larry W. Burks, and counsel for all Defendants, Phillip A. Moon, counsel for the parties informed the Court of their agreement, as follows:

1. Plaintiffs agree to a dismissal of this case without prejudice;
2. Plaintiffs will refile their Complaint in Newton County, Arkansas, Circuit Court, 14th Judicial Circuit, and have summonses issued to all Defendants; and
3. Phillip A. Moon is authorized to accept service of process - Complaint and Summons - on behalf of each and every Defendant.

WHEREFORE, IT IS ORDERED that the Complaint in this matter is dismissed
without prejudice.

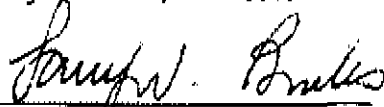
Dated April 14, 2008

By:


ROBERT T. DAWSON
UNITED STATES DISTRICT JUDGE

APPROVED:

Larry W. Burks, No. 70012



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ATTORNEYS FOR PLAINTIFFS
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U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
FILED

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CHRIS R. JOHNSON, CLERK

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